

G31dnmla

1 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
2 -----x
NML CAPITAL, LTD.,

3 Plaintiff,

4 v. 08 Civ. 6978(TPG)
5 09 Civ. 1707(TPG)
6 THE REPUBLIC OF ARGENTINA, 09 Civ. 1708(TPG)
14 Civ. 8601(TPG)
7 Defendant. 14 Civ. 8988(TPG)

8 -----x
AURELIUS CAPITAL MASTER, LTD.,
9 AURELIUS OPPORTUNITIES FUND II,
LLC, AURELIUS CAPITAL PARTNERS,
LP, et al.,

10 Plaintiffs,

11 v. 09 Civ. 8757(TPG)
12 09 Civ. 10620(TPG)
10 Civ. 1602(TPG)
13 THE REPUBLIC OF ARGENTINA, 10 Civ. 3507(TPG)
10 Civ. 3970(TPG)
14 Defendant. 10 Civ. 8339(TPG)
14 Civ. 8946(TPG)

15 -----x
BLUE ANGEL CAPITAL I LLC,

16 Plaintiff,

17 v. 10 Civ. 4101(TPG)
18 10 Civ. 4782(TPG)
19 THE REPUBLIC OF ARGENTINA, 14 Civ. 8947(TPG)
20 Defendant.

-----x (Caption continues)

21
22
23
24
25

G31dnmla

1 -----x

2 Related cases:

3 10 Civ. 9587(TPG)
 10 Civ. 5338(TPG)
 4 14 Civ. 8630(TPG)
 14 Civ. 8303(TPG)
 5 14 Civ. 8242(TPG)
 14 Civ. 4092(TPG)
 6 14 Civ. 4091(TPG)
 14 Civ. 7258(TPG)
 7 14 Civ. 10016(TPG)
 15 Civ. 1588(TPG)
 8 15 Civ. 2611(TPG)
 15 Civ. 5886(TPG)
 9 14 Civ. 10064(TPG)
 14 Civ. 7637(TPG)
 10 15 Civ. 2577(TPG)
 15 Civ. 5190(TPG)
 11 14 Civ. 8739(TPG)
 15 Civ. 3932(TPG)
 12 11 Civ. 4908(TPG)
 14 Civ. 10141(TPG)
 13 14 Civ. 5963(TPG)
 14 Civ. 1109(TPG)
 14 14 Civ. 3127(TPG)
 14 Civ. 7739(TPG)
 15 15 Civ. 0710(TPG)
 14 Civ. 8243(TPG)
 16 13 Civ. 8887(TPG)
 14 Civ. 9093(TPG)
 17 14 Civ. 10201(TPG)
 14 Civ. 7171(TPG)
 18 14 Civ. 7169(TPG)
 14 Civ. 7164(TPG)
 19 14 Civ. 7166(TPG)
 14 Civ. 9855(TPG)
 20 14 Civ. 5849(TPG)
 15 Civ. 1470(TPG)
 21 15 Civ. 1471(TPG)
 15 Civ. 6702(TPG)
 22 15 Civ. 1553(TPG)
 15 Civ. 1508(TPG)
 23 15 Civ. 4767(TPG)
 15 Civ. 4654(TPG)
 24 15 Civ. 3523(TPG)
 15 Civ. 4284(TPG)
 25 -----x

G31dnmla

1 -----x

2 Related Cases continued:

3 11 Civ. 8817(TPG)
4 15 Civ. 2369(TPG)
5 15 Civ. 7367(TPG)

5 -----x

6

7

New York, N.Y.

8

March 1, 2016
1:34 p.m.

9

Before:

10

HON. THOMAS P. GRIESA,

11

District Judge

12

APPEARANCES OF PARTICIPATING COUNSEL

13

DECHERT LLP

14

Attorneys for Plaintiff NML Capital

BY: ROBERT A. COHEN

15

FRIEDMAN KAPLAN SEILER & ADELMAN LLP

16

Attorneys for Aurelius Plaintiffs, Blue Angel

BY: EDWARD A. FRIEDMAN

17

DEBEVOISE & PLIMPTON

18

Attorneys for EM, Ltd.

BY: MICHAEL B. MUKASEY

19

GIBSON, DUNN & CRUTCHER LLP

20

Attorneys for NML

BY: THEODORE B. OLSON

21

HOLWELL SHUSTER & GOLDBERG LLP

22

Attorneys for Montreux Partners,
Cordoba Capital, Wilton Capital

BY: MICHAEL S. SHUSTER

24

25

G31dnmla

1 APPEARANCES CONTINUED

2

CRAVATH, SWAINE & MOORE LLP
Attorneys for Defendant Republic of Argentina
BY: MICHAEL A PASKIN

4

LATHAM & WATKINS LLP
Attorneys for Euro Bondholders for Order
BY: CHRISTOPHER J. CLARK

6

MILBERG LLP
Attorneys for Plaintiffs in Varela
and 10 other actions (small bondholders)
BY: MICHAEL C. SPENCER

8

9

DUANE MORRIS LLP
Attorneys for nonsettling plaintiffs group
BY: ANTHONY J. COSTANTINI

10

11

WEIL, GOTSHAL & MANGES LLP
Attorneys for Attestor Master Value Fund LP,
Bybrook Capital Master Fund LP,
Trinity Investments Limited, White Hawthorne, LLC
Yellow Crane
BY: RICHARD L. LEVINE

13

14

GLEASON & KOATZ, LLP
Attorneys for Fazzolari and Julio Roberto Perez
BY: ANU BHARGAVA

15

16

PROSKAUER ROSE LLP
Attorneys for small noteholders
BY: JENNIFER R. SCULLION

17

18

MORGAN, LEWIS & BOCKIUS LLP
Attorneys for Red Pines and Trinity Intervenors
BY: P. SABIN WILLETT

19

20

ANDERSEN SLEATER, LLC
Attorneys for Intervenor Mohammad Ladjevardian
BY: JESSICA J. SLEATER

21

22

REED SMITH LLP
Attorneys for The Bank of New York Mellon
as Indenture Trustee
BY: ERIC A. SCHAFFER

23

24

25

G31dnmla

1 THE CLERK: Conference on the request for orders
2 granting the Republic's motion, NML Capital limited versus the
3 Republic of Argentina and all affiliated case captions.

4 All parties are present, your Honor.

5 THE COURT: Good afternoon. Please be seated.

6 Today's hearing is to give those who favor my
7 indicative ruling and those who oppose my indicative ruling the
8 opportunity to be heard. So I think that it has been organized
9 to the order of which you'll speak and so forth. So let's
10 proceed with the order that has been established.

11 THE CLERK: Your Honor, speaking for the motion, this
12 first speaker will be Mr. Michael Mukasey.

13 Mr. Mukasey, if you would please stand at the podium
14 and make your presentation.

15 MR. MUKASEY: May it please the Court:

16 Good afternoon, your Honor. I am Michael Mukasey, of
17 Debevoise Plimpton. I'm here for EM Limited, which is one of
18 the plaintiffs that has signed an agreement in principle to
19 settle its claims against Argentina and therefore supports
20 entry of a final order lifting the pari passu injunctions as
21 provided in your Honor's indicative ruling.

22 Before counsel for Argentina present their legal
23 position, I just want to go through a little bit of history
24 that got us here.

25 THE COURT: Could you speak just a little slower so I

G31dnmla

1 can absolutely hear you.

2 MR. MUKASEY: OK. The Court now has before it all of
3 the actions, 62 in all, in which plaintiffs have secured
4 injunctions to specifically enforce the pari passu clause and
5 the 1994 fiscal agency agreement. Argentina has moved before
6 this Court to issue a final order providing that you would
7 vacate the injunctions issued in all of those cases.

8 To use the terminology from your Honor's February 19
9 indicative ruling, Argentina is asking that this Court lift
10 both the original injunctions and the "me too" injunctions, the
11 original injunctions having been entered in February of 2012
12 and the "me too" injunctions in 2015. As the Court correctly
13 stated in the indicative ruling, the Court has to lift the
14 injunctions in all cases in order to avoid harming plaintiffs,
15 like my client EM and others, that have reached agreement in
16 principle with Argentina.

17 Argentine filed motions in this Court seeking relief
18 from the pari passu injunctions because the "me too" injunction
19 was then on appeal in Circuit Court. Your Honor issued an
20 indicative ruling that should the case be remanded from the
21 Second Circuit, your Honor would vacate the injunction based on
22 strong evidence of recently changed circumstances. And on
23 February 19th, after full briefing by plaintiffs and Argentina,
24 your Honor issued an indicative ruling, saying that if the
25 cases were remanded from the Court of Appeals, your Honor would

G31dnmla

1 enter an order conditionally lifting the pari passu injunctions
2 if, and only if, two conditions were met -- that is the Lock
3 Law, that was enacted by the Argentine Legislature that
4 prevented payment, would have to be repealed, and, second, that
5 Argentina would have to make full payment to all plaintiffs who
6 entered into agreements in principle with Argentine on or
7 before February 29, which was yesterday.

8 Argentina then took that indicative ruling to the
9 Second Circuit, asked that Court remand the "me too" cases to
10 this Court so that your Honor could enter a final order
11 conditionally lifting the injunctions. On February 24,
12 Argentina went further and dismissed its appeal pending before
13 the Court of Appeals seeking review of the "me too" injunction,
14 did that with prejudice. On the same day, they dismissed a
15 related appeal contesting the scope of the original injunction,
16 did that with prejudice as well. And the Second Circuit
17 immediately issued a mandate restoring jurisdiction to this
18 Court in all of those cases.

19 In its order dismissing the appeals, the Second
20 Circuit said that dismissal was subject to two conditions,
21 agreed to by the parties: First, that Argentina would request
22 a hearing before this Court at which all parties could be heard
23 before any final order is entered -- and that's why we're here
24 today -- and, second, that any final order vacating the
25 injunctions would be stayed for up to two weeks so that anybody

G31dnmla

1 who opposed the order could take an appeal to the Second
2 Circuit and ask for a further stay if they thought one was
3 warranted. Now, Argentina has moved this Court to enter a
4 final order conditionally vacating the injunctions in all cases
5 and has also asked, as the Second Circuit directed, that this
6 Court hold this hearing.

7 Now, the arguments supporting Argentina's request to
8 lift the *pari passu* injunctions are, if anything, even stronger
9 today than they were when your Honor issued the indicative
10 ruling on February 19. Argentina has now entered into
11 agreements in principle covering over \$8 billion of claims in
12 these cases, but in order for any of those to go forward, the
13 *pari passu* injunction has to be lifted in all cases.

14 Your Honor unquestionably has the power to vacate an
15 injunction, that being an equitable remedy. You have the power
16 to vacate it in light of changed circumstances. And here the
17 evidence of changed circumstances is overwhelming. Your Honor
18 wrote in the indicative ruling that President Macri's election
19 changed everything, but since then a great deal more has
20 happened.

21 First, the substantial settlement agreements in the
22 records really speak for themselves. After years of
23 obstruction under the prior regime, in a short period of time
24 Argentina has managed to come to terms with the vast majority
25 of its creditors, leaving only a few parties who are holding

G31dnmla

1 out for more while preventing any of the settlements from going
2 forward. These holdouts may or may not agree to the terms
3 offered by Argentina. But whether they do or not, the
4 injunction has clearly served its purpose of encouraging
5 Argentina to engage in meaningful settlement negotiations.

6 Second, since the Court's indicative ruling, Argentina
7 has voluntarily abandoned its appeals challenging the Court's
8 authority to issue the injunctions. That, too, is evidence of
9 changed circumstances.

10 And, finally, Argentina has agreed that any relief
11 from the injunction should be conditioned both on repealing the
12 Lock Laws and payment of the settlements under the agreements
13 that were reached as of yesterday.

14 At this point, I think it's fair to say it's the
15 injunction itself, not Argentina, that stands in the way of
16 resolving this dispute. As your Honor found in the indicative
17 ruling, these changed circumstances have rendered the
18 injunctions inequitable and detrimental to the public interest.

19 The injunction is inequitable because it prevents
20 settling plaintiffs from receiving payment of their claims. My
21 client EM, for example, obtained a final judgment in this Court
22 more than 12 years ago, and it stands to receive approximately
23 \$850 million by settling with Argentina. Allowing the
24 injunction to remain in place would only serve to empower
25 plaintiffs who have not settled to hold out for a better deal

G31dnmla

1 while preventing the settling plaintiffs from receiving the
2 settlement that they have agreed to. In order to avoid this
3 inequitable result, the injunction should be lifted in every
4 case in which it is entered because otherwise nothing can go
5 forward in any case.

6 The question before the Court is whether the interests
7 of the remaining holdouts in negotiating a better deal outweigh
8 the interest of the settling plaintiffs in resolving their
9 disputes, the interest of the exchange bondholders from
10 receiving payment of their bonds, and the interest of the
11 Argentine people generally in securing a better economic future
12 for their country.

13 For the reasons that are stated in the Court's
14 indicative ruling, the Court should exercise its discretion to
15 lift the injunctions entered in all cases upon the fulfillment
16 of two conditions, as your Honor set forth in the injunctive
17 ruling -- in the indicative ruling: First, termination of the
18 Lock Laws, and, second, payment to the parties who reached
19 agreements in principle on or before February 29.

20 Unless your Honor has specific questions of me, I'm
21 happy to yield to counsel for Argentina, Michael Paskin, and
22 I'll be happy to respond later on, if necessary, to any points
23 that get made by those who oppose lifting the injunction.

24 Thank you.

25 THE CLERK: Thank you, Mr. Mukasey.

G31dnmla

1 The next speaker will be Mr. Shuster.

2 Mr. Shuster, thank you.

3 MR. SHUSTER: Thank you.

4 Michael Shuster, your Honor, from Holwell Shuster &
5 Goldberg. I represent four of the settling plaintiffs --
6 Montreux Partners, Los Angeles Capital, Cordoba Capital and
7 Wilton Capital -- in four of the separate individual actions.

8

9 Your Honor, my clients favor the indicative ruling and
10 support Argentina's motion now that the ruling be made
11 permanent. The indicative ruling was correctly decided. My
12 plaintiffs were an early settler. My plaintiffs settled early
13 because it was obvious to them that Argentina had changed
14 dramatically its approach to this dispute, that it was very
15 serious about settling and resolving this and putting the case
16 behind it, and because it made an offer that was fair and
17 reasonable, and because the offer was fair and reasonable my
18 clients accepted it.

19 The case has reached this posture because the lead
20 plaintiffs, and other plaintiffs, have successfully pursued a
21 strategy in this court. We're here because of the Court's good
22 and wise decision making over the course of ten years, and
23 we're here because of the constructive and indispensable role
24 that the Special Master has played in bringing the parties
25 together so that this decade-long litigation can finally be put

G31dnmla

1 behind Argentina, the Court, and the parties.

2 From our perspective, the equities here have shifted
3 dramatically. We are highly sensible of the fact that on the
4 other side of this dispute is a sovereign state, a sovereign
5 state whose public finances have been handcuffed by virtue of
6 the injunctions that have been in place for a decade, properly
7 so given its conduct, but it's conduct has changed. Argentina
8 fought an election over this issue. President Macri was
9 elected in part over this issue. This is a matter of central
10 concern to the national life of a sovereign state -- and not a
11 wealthy state, a state which needs to be able to now gain
12 access to the capital markets so that it can raise capital not
13 only to settle this litigation but so that it can benefit its
14 people who are by no means wealthy.

15 So the government is prepared and has been prepared to
16 settle all of these claims. It has indicated that it will
17 actually repeal legislation that stands in the way of resolving
18 these matters. It is simply doing everything it can to be
19 responsive to the will of this Court, to the needs of the
20 parties, and to its own needs.

21 From our perspective, there are some parties here who
22 seem to want to snatch still more litigation from the jaws of
23 settlement. We think that would be a mistake. We think that a
24 historic resolution of this case is at hand not only for this
25 Court but for the Republic of Argentina and its people. To us

G31dnmla

1 the equities have shifted decisively in favor of lifting the
2 injunction, and for the sake of all concerned we strongly
3 support the motion and your Honor's indicative ruling.

4 THE CLERK: Thank you very much, sir.

5 Mr. Michael Paskin.

6 MR. PASKIN: Good afternoon, your Honor. Michael
7 Paskin from Cravath, Swaine & Moore for Argentina.

8 As Mr. Mukasey and Mr. Shuster have indicated, we are
9 in favor of the motion to convert into an order your Honor's
10 indicative ruling of eleven days ago. The indicative ruling
11 was based on sound findings of fact and an observation of the
12 changed circumstances that have obtained in the time since the
13 original injunctions were entered and, most specifically, in
14 the time since President Macri came into office just over two
15 months ago.

16 The issue to be decided today, your Honor, is really
17 quite simple. It's whether those circumstances that your Honor
18 has found have changed are still the case. And we believe that
19 they are even more so in place because your Honor's indicative
20 ruling also -- subsequent to your Honor's indicative ruling,
21 there have been additional settlements that have been agreed
22 upon, and Argentina has further demonstrated its willingness
23 and eagerness to put these issues behind it because it has
24 withdrawn appeals that were currently pending before the Second
25 Circuit because it is fully invested in the opportunity that

G31dnmla

1 your Honor is presenting them with to resolve these disputes
2 once and for all.

3 There are a few issues that have been raised in the
4 various submissions made over the last several days objecting
5 to the indicative ruling and suggesting that your Honor should
6 not convert it into a final order, and I'd like to address a
7 few of those.

8 Perhaps the most important one is the suggestion that
9 in some way it would be OK if the order vacating the
10 injunctions in place were not done across all cases but were
11 perhaps done on some cases but not others depending on whether
12 a party has agreed to a settlement or not. I submit, your
13 Honor, that while there are injunctions that have been entered
14 in multiple nonconsolidated cases, the injunctive relief in
15 play here is not a plural thing. It is a singular thing that
16 has been prescribing Argentina's conduct, that has been
17 preventing Argentina from boosting its economy through
18 resolving these cases and accessing the international capital
19 markets, and your Honor entered those rulings both in 2012, and
20 subsequently, based on a common set of circumstances that the
21 Court had observed at that time. Those circumstances, which
22 were common at the time to Argentina's conduct, have changed in
23 a way that is common to all cases.

24 So I respectfully submit that to the extent your Honor
25 converts the indicative ruling into a final order, which the

G31dnmla

1 Republic obviously believes should be done, that it be done
2 across all cases regardless of whether a settlement has been
3 reached in that particular case or not. And as a practical
4 matter, your Honor, this issue is critical. The reason that
5 it's critical is because if the injunction remains in place in
6 any single case, then the relief exists exactly as it has for
7 these past several years. It gives any nonsettling party not
8 only a veto power and the ability to exercise its own will to
9 settle or not settle as it sees fit, which, of course, is any
10 party's right, but it allows that party, whether it is a large
11 plaintiff such as NML or any of the smaller individual
12 plaintiffs who your Honor will probably be hearing from today,
13 it gives any one of them the ability to blow apart the entire
14 global settlement across all cases and across all parties,
15 because if the injunction remains in any one case, the relief
16 that the injunction prescribes remains in place regardless of
17 whether the order has been vacated in other cases.

18 Another issue that's been raised, your Honor, is that
19 certain parties have suggested that rather than enter an order
20 following on what the indicative order said that would set
21 conditions upon performance of which the injunctions in place
22 would automatically be vacated, there are certain objecting
23 parties who believe that the Court should hold a separate
24 hearing down the road after those conditions have been
25 satisfied and only at that time make a determination about

G31dnmla

1 whether the injunctions should actually be lifted. Again, we
2 submit, your Honor, that that is not a workable solution.

3 First, there are a lot of issues in play here,
4 including the need to get new legislation through Congress to
5 repeal the laws that have acted for so long as an impediment to
6 settlement in Argentina as well as the likely need to access
7 the capital markets in order to raise financing to fund these
8 settlements. If there is not certainty, your Honor, about the
9 import of your Honor's ruling and the decision that upon the
10 occurrence of certain conditions the injunctions will be
11 lifted, which we fully expect to be quickly briefed and argued
12 before the Second Circuit so that we can get a final answer on
13 that question as quickly as possible, then it becomes much
14 harder to implement those required changes. If there is
15 uncertainty about whether your Honor will ultimately decide to
16 vacate the injunctions even upon those conditions occurring,
17 then there will be uncertainty in the Congress in Argentina,
18 there will be uncertainty within the capital markets, and it
19 becomes more difficult to implement this plan of global
20 settlement than if your Honor does what your Honor has already
21 chosen to indicate in the indicative ruling, which is to put an
22 order in place that would go into effect -- that it would be
23 ordered immediately that would call for the automatic lifting
24 of the injunctions upon the occurrence of those two important
25 conditions, one being the required legislative changes and the

G31dnmla

1 second being payment to those parties who have reached
2 settlements.

3 Another objection that's been made in some of the
4 submissions of the last couple of days, your Honor, relates to
5 the supposed fairness or unfairness of the public settlement
6 proposal that was put forward by Argentina earlier this
7 month -- or, excuse me, on February 5th, because we're now in
8 March. As your Honor correctly observed in the indicative
9 ruling, the question of how fair or not or how reasonable the
10 terms of settlement are, whether the terms that have been
11 offered, the terms that had been accepted and reflected in
12 actual agreements, that is not a question that the Court needs
13 to get involved in or needs to decide in reaching the relief
14 that we are seeking. Those are not the changed circumstances
15 that are required.

16 The fact is -- and your Honor has observed -- that
17 circumstances have changed because of Argentina's general
18 openness towards --

19 THE CLERK: Time, counsel.

20 MR. PASKIN: -- and it's willingness to engage and
21 reflect those agreements with certain parties that have already
22 settled.

23 Thank you, your Honor.

24 THE CLERK: Thank you, Mr. Paskin.

25 Mr. Christopher Clark.

G31dnmla

1 MR. CLARK: Thank you, your Honor.

2 I represent the Euro bondholders and certain
3 affiliated exchange bondholders.

4 Argentina owes my clients billions of dollars. I
5 don't think anyone in this room disputes that it's fairly owed.
6 Your Honor has stressed repeatedly throughout these proceedings
7 that my clients have a right to be paid just as the holdout
8 bondholders have a right to be paid.

9 Your Honor perceived extraordinary circumstances in
10 this litigation and issued an extraordinary remedy, which was
11 an injunction, in a breach of contract case, prohibiting the
12 payment of my clients' due, and that's gone on for years.
13 That's gone on now to the tune of \$3.1 billion being withheld
14 from my clients and other exchange bondholders by operation of
15 the injunction.

16 As your Honor indicated in the indicative ruling, the
17 extraordinary circumstances that merited the extraordinary
18 relief the Court granted are gone. Argentina is absolutely
19 engaging with the holdout bondholders. Argentina has settled
20 with the holdout bondholders, or the vast majority thereof.
21 Argentina is ready, willing and able, it seems, to repeal the
22 Lock Law and to pay on the settlements that have been agreed
23 to.

24 And so, as your Honor noted in the indicative ruling,
25 when you look at the equities here, the parties that have

G31dnmla

1 benefited are the holdout bondholders, who have engaged with
2 Argentina and worked out a settlement, and we're left
3 disadvantaged, your Honor. We've done nothing wrong. We hold
4 bonds. We've got payments that Argentina would like to make to
5 us, and at this point the only impediment from that fair and
6 just result is the injunction.

7 And so as your Honor correctly noted in the indicative
8 ruling, the balance of equities has changed; it's changed
9 materially. The facts on the ground have changed in that
10 Argentina has absolutely done the things the injunction was
11 meant to do. It wasn't meant to make them pay a certain amount
12 of money for a settlement that holdouts found acceptable. Your
13 Honor correctly noted, it was made to make them engaged. And
14 through the efforts of the Court and the Special Master and the
15 parties, they have done that. And at this point the equitable
16 result would be to grant the motion, start the process of my
17 clients getting paid their due and what they're owed. At this
18 point in this dispute, we're basically the only people with a
19 multibillion-dollar claim left that's not certain, and that's
20 not equitable, as your Honor noted.

21 So we fully support the granting of the indicative
22 ruling and ask that it be converted to a final order.

23 Thank you, your Honor.

24 THE CLERK: Thank you, Mr. Clark.

25 Now speaking against the motion will be Mr. Robert

G31dnmla

1 Cohen.

2 MR. COHEN: Good afternoon, your Honor. Robert Cohen,
3 from Dechert LLP, on behalf of plaintiff NML Capital.

4 Mr. Olson will be making our substantive argument. I
5 rise just to note for the record that we have withdrawn a
6 declaration that was submitted in support of our proposal, the
7 declaration of Mr. Jay Newman --

8 THE COURT: I am having a little trouble hearing you.
9 Just keep your voice up a little more, please.

10 MR. COHEN: Thank you, your Honor.

11 I rise, your Honor, just to note for the record that
12 we have withdrawn today the declaration of Mr. Jay Newman that
13 was submitted in support of our opposition papers, and we're
14 informed the Clerk's office has withdrawn that. So, we are not
15 relying on that declaration today.

16 THE CLERK: Thank you, Mr. Cohen.

17 Mr. Olson.

18 MR. OLSON: Thank you, your Honor. May it please the
19 Court:

20 My name is Theodore Olson, from Gibson Dunn &
21 Crutcher. I represent NML Capital. I have only one point to
22 make to your Honor. Together, NML Aurelius and Blue Angel and
23 Olifant represent 65 percent of the claims in this litigation.
24 As of yesterday, these plaintiffs entered into an agreement in
25 principle with Argentina to settle their claims in this

G31dnmla

1 litigation. This agreement is a monumental achievement. It is
2 a great tribute to the Court's patient and meticulous
3 supervision. It is also testimony to the tireless effort of
4 the Special Master and to the dedicated engagement of all of
5 the parties on all sides.

6 But the agreement is just at the edge of being
7 successful. Several steps must still occur, as you know,
8 before that success is finally realized. It is imperative that
9 these steps be handled delicately at this critical juncture.
10 Precipitous action now could jeopardize the settlements and
11 generate more litigation. We believe that everyone concerned
12 should want to avoid that possibility at all costs, Argentina
13 particularly. That goal is consistent with preserving this
14 remarkable achievement, and it is consistent with what the
15 Second Circuit sent us here to do.

16 With respect, we are concerned that entering the order
17 suggested in the Court's indicative ruling could well delay the
18 resolution of this case and might even put the settlement in
19 jeopardy. Argentina seems today even to be suggesting an
20 appeal. But as of yesterday morning, approximately 15 percent
21 of the plaintiffs in this litigation have not settled with
22 Argentina. If this Court enters an order that would vacate
23 their injunctions immediately, they are almost certain to
24 appeal from that order. If there are appeals, Argentina has
25 indicated that it might well delay any legislative action in

G31dnmla

1 Argentina to vacate the Lock Law. Appeals could last for
2 several months during which time everyone's settlement would be
3 in limbo and in jeopardy.

4 The far better result would be to postpone any order
5 vacating the injunctions so that these remaining plaintiffs can
6 have an opportunity to negotiate with Argentina. The
7 negotiations have moved quickly for those who are permitted to
8 negotiate. Argentina was able to negotiate settlements of 85
9 percent of the claims in 30 days, but many of those remaining
10 plaintiffs have not yet had an opportunity to negotiate with
11 Argentina either in person or through the Special Master. We
12 submit that with another 30 days Argentina could surely reach a
13 resolution with the remaining plaintiffs.

14 We believe, as this Court has repeatedly reminded us,
15 that settlement is the only way to resolve this litigation, and
16 negotiation is vastly more constructive than litigation, at
17 least now that Argentina is negotiating. Further negotiation
18 is the quickest route to the exit. An order vacating the
19 injunctions immediately is only a route, almost certainly, to
20 the Second Circuit. That should be the last thing that any of
21 us wants, including Argentina.

22 So we ask that the Court allow just 30 additional days
23 for orderly negotiations with the remaining plaintiffs to
24 continue before it takes any action to vacate the injunction.
25 It is a small request given the stake, the time that's already

G31dnmla

1 been invested in this case, and the great risk that if
2 precipitous action is taken.

3 Thank you, your Honor.

4 THE CLERK: Thank you, Mr. Olson.

5 Mr. Edward Friedman, please.

6 MR. FRIEDMAN: Good afternoon, your Honor. May it
7 please the Court:

8 I am Edward Friedman, with the firm of Friedman Kaplan
9 Seiler & Adelman. We represent plaintiffs Aurelius and Blue
10 Angel. My clients are part of the group representing
11 65 percent of the plaintiffs with injunctions who have entered
12 into an agreement in principle with Argentina yesterday along
13 with NML and Olifant.

14 We very much hope, your Honor, to see this settlement
15 consummated and performed. The reason why I am standing now in
16 opposition to the motion of Argentina for entry of an order is
17 that, first of all, we do agree 100 percent with what Mr. Olson
18 said on behalf of NML, that it is important for the Court not
19 to act precipitously and to allow at least 30 days for
20 negotiations to continue, to allow the Congress and Argentina
21 to act, and then there will be time for the Court to consider
22 the landscape and enter an order.

23 Whenever the Court enters an order based on its
24 indicative ruling, we believe there is one very important
25 clarification that is essential, and I did discuss this with

G31dnmla

1 counsel for Argentina a couple of days ago. I was surprised
2 that counsel for Argentina did not agree with my suggested
3 clarification, and I would like to explain to the Court what
4 that is and why we think it is essential in keeping with what
5 your Honor ruled in the indicative ruling.

6 If I may, your Honor, I would like to approach the
7 bench and hand to the Court the last page of the indicative
8 ruling with your Honor's conclusion and also the form of order
9 that we have proposed and the form of order proposed by the
10 Republic. And I have opened the two forms of order to the
11 relevant page.

12 (Pause)

13 I will explain in a moment, your Honor, exactly what
14 is the clarification we are requesting, which is in the
15 plaintiffs' proposed form of order, starting with "for the
16 avoidance of doubt." If I may, I would like to start with what
17 your Honor has already said in the indicative ruling.

18 As your Honor knows and can see, in the conclusion to
19 the Court's indicative ruling, the Court stated that it would
20 vacate the injunctions upon the occurrence of two conditions.
21 The second condition says that for plaintiffs that enter into
22 agreements in principle with the Republic on or before
23 February 29, 2016 -- and I'm going to pause because plaintiffs
24 NML, Aurelius, Blue Angel and Olifant are plaintiffs who have
25 entered into an agreement in principle on or before

G31dnmla

1 February 29, 2016 -- what the Court says for the injunctions to
2 be vacated is that the Republic must make full payment in
3 accordance with the specific terms of each such agreement. I
4 believe, your Honor, that the Court's ruling is very clear.
5 There must be full payment in accordance with the specific
6 terms of each agreement or else the injunctions will not be
7 vacated.

8 The agreement that Aurelius and the other plaintiffs
9 entered into with Argentina spells out the specific terms for
10 payment and other terms and conditions. Under our agreement in
11 principle, if Argentina fails to make full payment by April 14,
12 Aurelius and the other plaintiffs have the right in the
13 agreement to terminate. We hope payment is made. We entered
14 into the settlement agreement because we hope it will be
15 performed. But, obviously, our rights are very important to us
16 if Argentina does not make full payment in accordance with the
17 terms and if we, therefore, in accordance with the terms,
18 terminate the agreement.

19 When I spoke to counsel for Argentina, the
20 clarification that I suggested, which is now before your Honor,
21 says that for the avoidance of doubt, if plaintiffs do not
22 receive full payment in accordance with the specific terms of
23 the agreement in principle for any reason, including if
24 plaintiffs terminate the agreement in principle on or after
25 April 14, 2016, in accordance with the terms of the agreement

G31dnmla

1 in principle, the injunction shall remain in place. We believe
2 that clarification is exactly consistent with what your Honor
3 stated in the indicative ruling, namely, Argentina must make
4 full payment in accordance with the specific terms of the
5 agreement or else the injunctions are not vacated.

6 The position now being taken by Argentina, your Honor,
7 is that if my clients terminate the agreement in accordance
8 with the terms and are not paid, here's the situation they are
9 in according to Argentina, which we think is totally contrary
10 to your Honor's ruling. My clients would be in a situation
11 where they are not paid, Argentina says, but if Argentina goes
12 forward and pays other plaintiffs who have settlement
13 agreements, then the injunctions in favor of NML, Aurelius,
14 Blue Angel and Olifant, 65 percent of the plaintiff group,
15 those injunctions will be terminated, vacated.

16 The reason why we submit that is ridiculous,
17 inequitable and contrary to your Honor's indicative ruling is
18 that if you put aside the plaintiffs I am now speaking about,
19 the plaintiffs who represent 65 percent of the group, then we
20 have, as your Honor heard earlier, 15 percent of the plaintiffs
21 don't have agreements --

22 THE CLERK: Time, Mr. Friedman.

23 MR. FRIEDMAN: I will just finish these two sentences.

24 -- Argentina says, well, we've settled with
25 20 percent, it's actually 10 percent, your Honor, because

G31dnmla

1 10 percent are being paid in full, which was not offered to our
2 client. So the absurdity is if Argentina honors settlement
3 agreements with 10 percent of the plaintiffs, my clients'
4 injunctions are vacated. That is not what the indicative
5 ruling says.

6 Thank you, your Honor.

7 THE CLERK: Thank you, Mr. Friedman. Thank you, very
8 much.

9 Mr. Michael Spencer.

10 MR. SPENCER: Good afternoon, your Honor. Michael
11 Spencer from Milberg LLP. I represent the group that we've
12 called the small bondholders. These are bondholders in 11
13 actions with the caption starting with Varela v. the Republic
14 of Argentina.

15 We are the largest group, your Honor, of the
16 15 percent of the bondholders who have not yet settled. So we
17 are here today, your Honor, with a very specific and urgent
18 perspective, to ask your Honor very strongly, please, do not
19 vacate the injunctions until we have had the opportunity to
20 negotiate with Argentina, because we want to settle as well.
21 We haven't been able to negotiate toward a settlement yet.
22 There is no reason to rush entry of your Honor's indicative
23 order, and we would agree strongly with Mr. Olson's request
24 that the Court stay its hand for 30 days to allow us to
25 negotiate in accordance with the status quo that is presently

G31dnmla

1 in existence. We believe that comports with legality and with
2 the equities of the situation and will not throw us into the
3 Second Circuit, where everything that this Court has tried to
4 create so far might be jeopardized.

5 I have three things specifically to say to your Honor.
6 I would like to describe who we are. I would like to describe
7 why we have not settled, and I'd like to elaborate briefly on
8 exactly what I think the Court should do here today.

9 Your Honor, the claims that my group represents are
10 about \$800 million. There are a number of other lawyers in the
11 courtroom today who also represent individual and small fund
12 bondholders who comprise the 15 percent who have not yet
13 settled. Most of us have been litigating since shortly after
14 the default in 2001. Most of these people, your Honor,
15 distinct from the hedge funds you just heard from, are
16 individuals or small funds. Most of them bought, your Honor,
17 predefault for the full face value of the bonds, and,
18 therefore, your Honor, they have a very different perspective
19 on this situation.

20 Most of them bought in small amounts. I get calls
21 every week from a \$10,000 bondholder in Argentina who is very
22 nervous about this situation. Many of my clients are from
23 Argentina. Many of them bought the bonds because they were
24 beseeched for patriotic reasons by their country to make the
25 purchases. And, your Honor, they have been hanging on ever

G31dnmla

1 since in about 60 actions for my clients and others for other
2 lawyers that have been brought in this Court.

3 So, your Honor, I suggest we are the people that your
4 Honor has been trying to protect over the years so that we
5 could get to the point where the cases could be settled, and I
6 know your Honor's goal has been that and I know the Special
7 Master's goal has been that. So we were very happy when the
8 Macri administration announced late last year that it was open
9 to settlement. We share the Court's view on that.

10 So my second point, your Honor: Why haven't we
11 settled? And the short answer is, your Honor, due to the
12 circumstances of the negotiations, we have not yet had an
13 opportunity to negotiate with Argentina. As a practical
14 matter, your Honor, I think the main reason for that is that
15 the decision was made to allow the largest bondholders to go
16 first, and that may have been a reasonable approach to this,
17 your Honor. The smaller bondholders tried to get involved in
18 that process but we were told to wait our turn, which we have.

19 So, your Honor, we haven't been intransigent. There
20 is not an impasse. We are not greedy. We just haven't had a
21 chance to negotiate.

22 And I'm here, your Honor, to ask you, please, to give
23 us that chance. With the pari passu injunctions that we have
24 invested so much effort over the past two years to achieve,
25 leave the status quo for a month to give us a fair chance to

G31dnmla

1 negotiate.

2 We were astonished when Argentina on
3 February 11th asked your Honor to vacate the injunctions simply
4 because it was premature to do so, your Honor. Since we
5 haven't negotiated and since Argentina is very aware that we
6 have not had the chance to negotiate yet, it is unfair to
7 change the status quo until we have been allowed to bask in the
8 sunlight that the Macri administration says it has brought to
9 this situation. So far, we have not. So far, we have not been
10 able to negotiate substantively with Mr. Caputo and his team.

11 Your Honor, we will negotiate with them in New York.
12 We will negotiate with them in Buenos Aires. We will do it
13 with the Special Master or in any other way that seems
14 appropriate, but we need the opportunity to sit down with them.
15 And it is unfair and overly hasty, I submit, your Honor, to
16 change the present situation until we have been given that fair
17 opportunity to negotiate.

18 So my proposal, your Honor, is the same as the one
19 that Mr. Olson made, even though I didn't know he was going to
20 say what he said until he was at the podium here. My
21 rhetorical question is: What's the rush, your Honor? Please
22 stay your hand for a month, allow us to negotiate with
23 Argentina, and I believe, your Honor, that we will be able to
24 move the 85 percent that has currently been achieved up to
25 close to or at 100 percent.

G31dnmla

1 Your Honor, if the indicative ruling is entered as an
2 order, I am quite sure that I and the other lawyers
3 representing the 15 percent who have not settled --

4 THE CLERK: Time, Mr. Spencer.

5 MR. SPENCER: -- will have no choice but to appeal to
6 the Second Circuit, and as Mr. Olson and Mr. Friedman said,
7 that could ruin the delicate balance that favors negotiation
8 that we presently have.

9 Thank you.

10 THE CLERK: Thank you, Mr. Spencer.

11 Mr. Anthony Costantini.

12 MR. COSTANTINI: Good afternoon, your Honor. My name
13 is Tony Costantini of the Duane Morris firm. I represent a
14 real mix of plaintiffs. I have 115 individual bondholders in
15 one action, the Adami action. I also represent 10 different
16 institutional investors. So I've seen both
17 judgment/nonjudgment, settlement/nonsettlement, and I want to
18 contribute some thoughts.

19 The first thought that I have -- we will get it over
20 easily enough -- is that I agree entirely with what Mr. Olson
21 suggested in terms of the 30 days over. And as far as my
22 individual bondholder clients are concerned, I don't think I
23 could be as eloquent as Mr. Spencer just was before me, so I
24 will cut those parts of the argument.

25 I want to talk instead about two things. One is

G31dnmla

1 changed circumstances. We hear much from Mr. Paskin on how
2 much circumstances have changed. You have written in the
3 indicative ruling that circumstances have changed. But I think
4 there is a very important circumstance that has not changed.
5 Your Honor has ruled twice, and the Second Circuit has affirmed
6 twice, that the pari passu clause has been violated numerous
7 times by Argentina, that resulted in the payment of billions of
8 dollars to the exchange bondholders who have -- or who are
9 opposing today. That is the first thing.

10 And you have ruled twice, and the Second Circuit has
11 affirmed twice, that there is no money damages that can be
12 pursued because of the prior intransigence, and that
13 intransigence has not been removed. My clients only have an
14 equitable remedy, and to take that equitable remedy away for a
15 clear violation of the law that you've twice recognized is
16 inequitable, and we would oppose lifting the injunction
17 entirely.

18 I understand the concerns that many people have
19 expressed, and that you yourself expressed, in the indicative
20 opinion with regard to lifting the injunction, but I think if
21 you were inclined to do so, even though we would oppose it, I
22 think there are certain things that you need to focus on. One
23 is the conditions precedent. The first one, that Argentina
24 remove certain legislative impediments, I don't think you can
25 do that automatically, at least not to achieve confidence among

G31dnmla

1 the people otherwise. There is going to be a fight in the
2 Argentine legislature as to what gets passed in response to
3 that part of your condition. And you should maintain the right
4 to look at, review the Argentine legislative acts to see if
5 they truly do remove the impediments, particularly the
6 impediment with respect to collecting foreign money judgments
7 in Argentina, which is of great concern.

8 I also think, with respect to the second condition,
9 that that also should be reviewed for many of the reasons that
10 Mr. Friedman has so eloquently stated. I think, also, even
11 though I agree with the 30 days, there is no reason not to
12 extend the time to accept their offer from February 29th,
13 yesterday, for another three- or four-week period.

14 It is obvious from the submissions that have been made
15 from everybody that assuming we will, on everyone's part, that
16 there is confusion, lack of clarity, misunderstanding and
17 miscomprehension, and I don't say this in any way to denigrate
18 the work that has been done by the Special Master, which in my
19 view has been extraordinary, and you are to be complemented for
20 appointing Mr. Pollack as Special Master, but just yesterday I
21 had a client call at 10 o'clock in the morning and say, Tony,
22 you've been great but I'm accepting Argentina's settlement
23 offer. 10 o'clock at night the same client called me and said
24 I accepted their terms and they rejected it; there are
25 additional conditions they're imposing.

G31dnmla

1 Now, what are the merits or demerits of that
2 particular position? And I don't know enough to say it. I
3 think the extra time, both in terms of the protection for the
4 three weeks or the 30 days suggested by Mr. Olson would iron
5 out those kind of differences and get us closer. I also think
6 your Honor should consider if there is an alternative to
7 lifting the entire order. Maybe it can be lifted in stages.

8 I mean, we are certainly very, very sympathetic to the
9 concerns that are expressed by the other settling defendants.
10 They've lasted -- they've held out for as long as our clients
11 have, and we understand that, but we think that there are other
12 holders of external indebtedness who don't need to be treated
13 the same.

14 And the final thing I would suggest is that your Honor
15 is under an automatic stay of two weeks if you decide to lift
16 the order. There is no reason that you can't grant a stay
17 until the Second Circuit appeal is heard. And for my clients,
18 we are willing to agree right here and now to an expedited
19 briefing schedule in the Second Circuit so that this could be
20 accomplished as quickly as possible.

21 Thank you very much for your attention, your Honor.

22 THE CLERK: Thank you, Mr. Costantini.

23 Mr. Richard Levine.

24 MR. LEVINE: May it please the Court:

25 I'm Richard Levine, from Weil, Gotshal, for plaintiffs

G31dnmla

1 Attestor, Bybrook, Trinity, White Hawthorne and Yellow Crane,
2 "me too" plaintiffs. We represent a subset of the client
3 Mr. Costantini represents.

4 Let me say that I concur with almost all the arguments
5 we've heard this morning from Mr. Olson and Mr. Friedman and
6 Mr. Spencer and Mr. Costantini. My clients have not had the
7 opportunity to benefit from the changed circumstances that your
8 Honor has described in the indicative order in that we have not
9 yet had the opportunity to substantively engage with Argentina
10 or through the Special Master. We think that it would be
11 totally inequitable to pull the wool -- the rug out from under
12 us before we have had that opportunity. My clients are
13 slightly in a unique position in that they felt compelled
14 because of the February 29th deadline to be assured of being
15 treated fairly and fully with other settling plaintiffs to
16 tender settlement agreements yesterday. But as Mr. Costantini
17 indicated, there is confusion. There has been some pushback
18 from Argentina with respect to some of them. They don't know
19 exactly what Argentina is agreeing to. They think that all of
20 these things can be resolved if they have a chance to
21 negotiate. And they really think that the proposal to extend
22 the injunctive relief for another 30 days, as proposed by
23 Mr. Olson, the proposal to push forward the
24 February 29th deadline by three weeks, as articulated by
25 Mr. Costantini, are the only ways they can be treated fairly.

G31dnmla

1 There are three main points, your Honor, that I want
2 to briefly cover and otherwise we will rely on the arguments
3 set forth in our brief.

4 First, there is the issue of different treatment,
5 different dollar payments for plaintiffs with injunctive
6 orders, those who have and those who don't have injunctive
7 orders. Some of my clients have injunctive orders. Some of
8 them have made motions to your Honor for a pari passu
9 injunction, which the Court has not yet gotten to. And of
10 course, there are other bondholders out there who have the same
11 contractual rights who have not sought an injunction.

12 We believe that under the pari passu provision it is
13 completely unfair for Argentina to basically force on players,
14 on investors, the settlement which differentiates based on
15 whether or not they have an injunction, whether or not they
16 have moved for an injunction, which is still pending before
17 your Honor, or whether or not other bondholders have not moved.
18 It seems to us that's something which should be resolved
19 through negotiation, but, if not, it is something we think your
20 Honor needs to address. At a minimum, we ask that your Honor
21 enter the injunctive relief that is in pending motions with
22 retroactive effect so at least those who timely filed motions
23 are treated similarly with the plaintiffs who have received
24 injunctions from your Honor. We think that's required by the
25 pari passu provision and your Honor's and the Second Circuit's

G31dnmla

1 prior rulings therefor.

2 A second issue we have, your Honor, is that there
3 seems to be differing treatment by Argentina of the terms of
4 this unilateral order. That can't be. If it makes a
5 unilateral offer and it is accepted, it should be determined
6 and applied by Argentina consistently. So, for example,
7 Argentina in yesterday's submissions indicated it had
8 settlements with VR, Procella, and Red Pines. Each of these
9 plaintiffs have claims that extend back many years, bonds they
10 bought many years ago, and yet they have been accepted into the
11 settlement. Some of my clients have received questions or
12 comments on their settlement acceptance forms suggesting that
13 Argentina is questioning whether some of their older bonds
14 should be able to participate. That's not fair. If they make
15 a unilateral offer and it is accepted, it must be accepted as
16 to all similarly-situated plaintiffs, and we ask that your
17 Honor make clear that is something they are required to do.

18 Finally, just to reiterate on the point made by
19 Mr. Costantini and Mr. Spencer. Yesterday's deadline really
20 was unfair. As I indicated, my clients felt that -- my clients
21 are sophisticated investors. They are big boys. They still
22 felt they had no choice, because of the February 29th deadline
23 built into the offer, to tender settlement agreements yesterday
24 without ever having had the opportunity that 85 percent of the
25 bondholders had to engage with the Special Master, to engage

G31dnmla

1 with Argentina. That's just not fair.

2 Yesterday's deadline should be extended. Argentina
3 should be ordered to engage with all bondholders who want to
4 settle, who want to engage, and none of the injunctions, which
5 are based on pure contractual rights, as your Honor has
6 repeatedly found, should be lifted until at least there is that
7 opportunity to engage.

8 We thank you, your Honor. And we just say that
9 Argentina should not be able to rush this thing through but,
10 rather, your Honor should express the law to them to engage in
11 good faith negotiations with all the bondholders they have not
12 yet negotiated with. We think that's the minimum that equity
13 requires.

14 Thank you, your Honor.

15 THE CLERK: Thank you, Mr. Levine.

16 Attorney Anu Bhargava.

17 MS. BHARGAVA: May it please the Court:

18 Good afternoon, your Honor. Anu Bhargava, from
19 Gleason & Koatz. I represent individual and "me too"
20 bondholders Fazzolari and Julio Roberto Perez.

21 I join and adopt Mr. Olson's argument as our own and
22 on behalf of my clients.

23 Thank you so much, your Honor.

24 THE CLERK: Thank you very much, Ms. Bhargava.

25 The next speaker will be Ms. Scullion, Ms. Jennifer

G31dnmla

1 Scullion. Thank you.

2 MS. SCULLION: Good afternoon. Jennifer Scullion.
3 Your Honor, I represent eight classes of primarily very small
4 noteholders.

5 And let me just begin by saying although we oppose the
6 motion to vacate, if your Honor is still inclined to vacate, we
7 would adopt Mr. Olson's suggestion --

8 THE COURT: Can you start again and speak just a
9 little slower?

10 MS. SCULLION: Sure.

11 THE COURT: I have a little trouble understanding you.

12 MS. SCULLION: Absolutely.

13 Although we oppose, if your Honor does continue to
14 adopt the indicative ruling, we would ask that you adopt
15 Mr. Olson's suggestion of a 30-day period for substantive --
16 substantive -- negotiations with those who have not yet had the
17 opportunity to have those negotiations. Your Honor, those
18 people who have not had an opportunity include my clients. We
19 have tried repeatedly to have substantive negotiations. We
20 have been rebuffed at every turn. So if there is going to be a
21 substantive negotiation, if your Honor is going to order that,
22 I'd request that our classes be included in those substantive
23 negotiations.

24 Your Honor, I just want to address really two points.
25 One is this question of change of circumstances. As I think

G31dnmla

1 others have said, from my clients' perspective, there has been
2 no change of circumstances. You ask yourself, what were the
3 circumstances in 2005 and 2010? And they were that Argentina
4 decided unilaterally to make certain offers on its own terms
5 and on a take-it-or-leave-it basis. If you didn't take that
6 offer, you would not otherwise be paid; that was it.

7 The same circumstance exists today. The only thing --
8 the only thing Argentina has said that my clients are being
9 offered at this time is their unilateral standard offer, which
10 would impose a huge haircut on these classes who have held, by
11 definition, since 2004 at least continuously; frankly, most of
12 them have held much longer than that and bought before the
13 defaults.

14 And if we do not accept that offer, what is our
15 choice? Our choice is to continue to litigate to judgment, but
16 that has not changed. We still do not have Argentina agreeing
17 that if judgments are entered, that they will be honored, and
18 that was a factor that your Honor looked at and the Second
19 Circuit looked at in determining that injunctive relief was
20 necessary to protect rights. So, again, there have been no
21 change of circumstances from our clients' perspective.

22 The second point is a question of public interest, and
23 there is a line of special public interest. We agree that
24 there is a public interest in fostering settlement discussions,
25 but that means actual substantive negotiations. It does not

G31dnmla

1 mean here's an offer and that constitutes a settlement
2 negotiation. Enough has been said about that already.

3 But the other public interest here, I do submit, is in
4 the rule of law, and that's a public interest that serves not
5 only investors like my clients, who can then have some
6 assurance that the contractual rights that they've paid for are
7 going to be honored, but it also serves the interests of
8 Argentina and other sovereign debt issuers. If there is no
9 guarantee that the rule of law will be honored, then they won't
10 be able to issue debt at reasonable rates in the markets.

11 And what is happening right now, your Honor, is we
12 still have an undisputed pari passu violation and intended
13 further violations. There is really no dispute about that.
14 The question is remedy. And what's here right now is there
15 should be no remedy for a violation of your rights. If there
16 is no remedy, then there is no right and the rule of law is not
17 being upheld.

18 Your Honor, we respectfully request that you deny the
19 motion to vacate or adopt Mr. Olson's suggestion, in the
20 alternative, provided that we are included in those substantive
21 negotiations.

22 Thank you very much.

23 THE CLERK: Thank you, Ms. Scullion.

24 Mr. Willett.

25 MR. WILLETT: Good afternoon, your Honor. I'm Sabin

G31dnmla

1 Willett of Morgan Lewis. We represent the plaintiffs in the
2 Red Pines and Trinity cases. Those are Argentine pari passu
3 bonds that are governed by German and English law, and we are
4 intervenors in this proceeding just for purposes of addressing
5 the injunction.

6 I wanted to pick up on a point that creates a
7 technical problem for Mr. Paskin's order that you've heard a
8 lot about this afternoon, the people who tell you they have not
9 been able to negotiate with Argentina yet, and some of my
10 clients are in that same position. I should say, all 12 of
11 them have now settled -- all 12. But it's important that you
12 understand how did a person settle if he couldn't engage with
13 Argentina. And here's how.

14 Argentina published an offer on its website. The only
15 way you could settle, and be afforded the protections of the
16 indicative ruling, was to accept that offer without change by
17 February 29th. And that's what 11 of our clients did. One of
18 our clients did succeed in negotiating with Argentina and
19 reaching its own agreement, but all the rest had to simply take
20 Argentina's terms. Fair enough; it's a contract.

21 But here's the problem with Mr. Paskin's order. The
22 way you accepted that contract was you sent in a form listing
23 your bonds. The form itself provides that those bonds, which
24 are prescribed by the terms of the contract itself, are outside
25 the treatment of the settlement. If you were to enter

G31dnmla

1 Mr. Paskin's order, then Argentina would be able to
2 unilaterally decide which bonds are in and which bonds are out
3 of the settlement. If, on the other hand, your Honor takes up
4 Mr. Olson's suggestion and just waits 30 days, I expect any
5 problems like that could be resolved.

6 There is another way to solve this problem if you're
7 inclined to enter an order today and that picks up on a point
8 that you heard from Mr. Friedman. I have a very brief redline
9 of Argentina's order. If I could approach the bench, I could
10 describe for you this modest change that would be necessary?

11 And I should say, I gave a copy of this to Mr. Paskin
12 and Mr. Cohen before the hearing.

13 (Pause)

14 THE CLERK: Thank you.

15 MR. WILLETT: Your Honor, I turned it to page 6, the
16 last page of the order. And if you edit it simply to say that
17 the injunctions will be vacated upon your finding that the
18 conditions have been met, then all of the concerns that I think
19 you've heard from people on our side, or at least many of them,
20 would be addressed, and, I submit, Mr. Paskin's concerns will
21 be addressed, too.

22 He told us that he was worried that there would be
23 uncertainty if you don't rule today. Argentina would be -- its
24 parliament would be uncertain how to proceed; so would the
25 markets, he said. But they're going to be more uncertain if

G31dnmla

1 you enter an order today which automatically kicks in when
2 things are deemed to occur. No one will know what that means.

3 Whereas if it's up to your Honor, on a short-order of
4 notice brought by Mr. Paskin, who says I have now hit the
5 conditions, we have paid the people we settled with and we have
6 repealed the necessary laws, on very short notice your Honor
7 will be able to then vacate the injunctions. If that doesn't
8 happen, we're going to have the risk that all these people you
9 have heard about who haven't been able to engage, haven't
10 physically met Mr. Pollack, for example, they're going to be
11 stuck with Argentina's unilateral determination of whether a
12 specific bond is prescribed by the terms of its indenture or
13 trustee, as opposed to bringing that issue, if there is to be
14 such an issue, before your Honor.

15 Thank you very much, your Honor.

16 THE CLERK: Thank you, Mr. Willett.

17 Ms. Sleater.

18 MS. SLEATER: Thank you, your Honor, for the
19 opportunity to be heard today. I represent a group of small
20 bondholders who purchased their bonds in the 1990s. They are
21 real people. The largest holder is a 90-year-old man who is
22 disabled and hopes to use the interest from these bonds to
23 support himself.

24 We concur in all of the arguments that have been made
25 in opposition to entering the indicative ruling today.

G31dnmla

1 Our -- my clients don't have an injunction. They
2 filed an action in 2006 and have obtained judgment in 2007.
3 They have been waiting this entire time for Argentina to at
4 least speak to us. We have received no word --

5 THE COURT: I'll tell you, slow down a little bit.

6 MS. SLEATER: OK. We have received no word at all
7 from anybody on Argentina's side. We stand ready, willing and
8 able to enter into any kind of settlement negotiations. We
9 have no intention to blow apart any of the current settlements
10 that are out there. All we ask is for a reasonable amount of
11 time to engage in an opportunity to have these negotiations.

12 The Court has recognized the language in the bonds
13 holding that all bondholders, regardless of size, should
14 receive equal treatment, and this language is what caused your
15 Honor to enter these injunctions in the first place. So we
16 respectfully ask just that the Court grant a reasonable amount
17 of time for all bondholders to engage in negotiations of
18 settlement with Argentina.

19 Thank you.

20 THE CLERK: Thank you very much, Ms. Sleater.

21 Mr. Schaffer.

22 MR. SCHAFFER: Your Honor, Eric Schaffer, from
23 ReedSmith. I'm here on behalf of the Bank of New York Mellon,
24 as Indenture Trustee.

25 Your Honor, our issues are purely administrative.

G31dnmla

1 First, if the Court lifts the injunction, we will need to
2 understand when, how, and what distributions are to be made.
3 We will need guidance with regard to the record date for
4 payments and confirmation of amounts to be paid to the exchange
5 holders. Second, your Honor, we will want to ensure that the
6 Trustees' rights and protections under the indenture and under
7 orders of this Court are not impaired.

8 Your Honor, I believe that a supplemental order will
9 be necessary to deal with all of these mechanical issues, and,
10 your Honor, we have been working with counsel for the Republic
11 and we have received assurance with regard to all of the points
12 we've raised. So, we are hopeful of being able to address all
13 of that in a supplemental mechanical order, if you will.

14 Thank you, your Honor.

15 THE CLERK: Thank you, Mr. Schaffer.

16 Counsel now, the Court will afford time for rebuttal
17 of two minutes, whoever wants to rebut. And I will begin by
18 starting over again in the order in which we began.

19 Mr. Mukasey, do you care to offer two minutes of
20 rebuttal?

21 MR. MUKASEY: OK. Two minutes?

22 THE CLERK: Yes, sir. And you don't have to offer
23 rebuttal if you don't care to.

24 MR. MUKASEY: I care to.

25 With respect to Mr. Friedman's point about that if

G31dnmla

1 only 10 percent settle, there won't be any injunction in place
2 and that wasn't contemplated by the indicative ruling, that was
3 precisely what was contemplated by the indicative ruling
4 because at the time the indicative ruling was issued, we didn't
5 know what percentage of people would settle. The point is the
6 injunctions get lifted and people are free then to negotiate,
7 if they wish. What was not contemplated was that people would
8 be able to stand in the way of settlements that have already
9 been agreed to.

10 With respect to the claim that because there is an
11 appeal, an inequitable injunction should stay in place, there
12 is no basis for doing that. The prospect of an appeal which is
13 in the normal course should not be an excuse for keeping an
14 inequitable injunction in place.

15 Also, the terms of the agreement -- of the settlement
16 that has been reached by NML say essentially that if they don't
17 get paid by April 14th, it's not that the agreement is enforced
18 according to its terms, which is what your Honor put in your
19 indicative order, but, rather, that the agreement dissolves; it
20 is as if it didn't exist. That is not what your Honor
21 contemplated in saying that the agreement was to be performed
22 according to its terms, not if its terms call for
23 self-destruction, which is what the terms of the NML order call
24 for.

25 So for all of the above reasons, I request that the

G31dnmla

1 injunctions be lifted and that the parties be permitted to
2 proceed with this settlement.

3 Thank you.

4 THE CLERK: Thank you, Mr. Mukasey.

5 Mr. Shuster.

6 MR. SHUSTER: Thank you, your Honor. I'll be brief.

7 The way I understand what the lead plaintiffs are
8 saying -- that is, NML, Aurelius, Blue Angel and Olifant --
9 they are saying they have the right to walk away from their
10 agreement if they're not paid by April 14. Presumably, they
11 secured that right for themselves, and they say if they're not
12 paid by April 14, they may terminate, and that could leave them
13 in a vulnerable position if Argentina pays other parties after
14 April 14. And there's one simple answer to that problem for
15 them. Don't terminate. Don't terminate your agreement on
16 April 14. Leave it in place, the same way as every other
17 agreement is in place, and when everybody else gets paid,
18 you'll get paid. So that is an illusory problem and certainly
19 one of their own making.

20 The second point is by securing themselves that right,
21 they have underscored the urgency of untying Argentina's hands
22 in its entirety as soon as possible, because they have left
23 Argentina only six weeks to comply with that payment term. And
24 if indeed they have a right to terminate and take 65 percent of
25 the settlement away, that's all the more reason why Argentina

G31dnmla

1 needs to be freed up as soon as possible to get on with the
2 business of repealing the necessary legislation, accessing the
3 capital markets, and arranging payments for all settling
4 parties.

5 And, finally, as to the request for a further 30-day
6 stay, I will note only that the Second Circuit in its mandate
7 back to this Court was express that there would be a 14-day
8 stay by agreement of all parties, and that included the parties
9 who are now asking for a 30-day stay.

10 Thank you, your Honor.

11 THE CLERK: Thank you, Mr. Shuster.

12 Mr. Paskin.

13 MR. PASKIN: Thank you, your Honor. Mr. Mukasey and
14 Mr. Shuster have made some of these points. I'll be very
15 brief.

16 The issue that NML and Aurelius have raised with
17 respect to the right to terminate their agreement is, as
18 Mr. Shuster said, an illusory one. If they choose to terminate
19 their agreement because the financing can't be raised by
20 April 14th and because payment gets delayed beyond that date,
21 they can either walk away from their deal or they can stick
22 with it. If they walk away from their deal, they are no longer
23 a settling party, so the order and the relief and the
24 conditions contemplated in the indicative ruling no longer
25 include them in the group of people who are entitled to payment

G31dnmla

1 prior to the relief from the injunctions. If they choose to
2 stay in and wait for their payment, that's fine. And they can
3 make that choice whenever they want.

4 If they want to receive their \$4.6 billion in
5 settlement proceeds, I would submit that they will likely wait.
6 If they have buyer's remorse and they have decided that those
7 terms are not good enough for them, then I suppose they'll
8 choose to walk away.

9 But what should not be allowed to happen by their
10 choice to walk away from this settlement is to blow up the
11 ability of every other party to settle. Your Honor should not
12 entertain that request. They should not be allowed to impose
13 conditions in the relief sought here that will allow them to
14 express a veto right over the injunctions being lifted.

15 If they wish, after the injunctions are lifted, to
16 pursue their contract remedies, they can do so. That has been
17 apparently an unsuccessful avenue for them for many years. We
18 would think that in reaching this deal they agreed to it
19 because they actually want to get paid. So they should behave
20 that way, and they should not try to interfere with the relief
21 that Argentina and others are now seeking to allow those
22 payments to happen --

23 THE CLERK: Time.

24 MR. PASKIN: -- to allow these settlements to go
25 through, and to allow this dispute to be put to rest.

G31dnmla

1 Thank you, your Honor.

2 THE CLERK: Thank you, Mr. Paskin.

3 Mr. Clark.

4 MR. CLARK: Very briefly, your Honor.

5 Your Honor heard from a number of small parties here
6 who are asking your Honor to give more time so that they can
7 individually negotiate with Argentina. There are thousands of
8 claimants, your Honor. There is one Special Master. He's
9 wired tirelessly. But the idea that a claimant with \$10,000
10 worth of bonds is going to sit down individually with the
11 Republic of Argentina and the Special Master to work out a
12 tailored deal for that \$10,000 worth of bonds while my clients
13 wait for their \$3.1 billion in interest that hasn't been paid
14 for years is, I think, the definition of inequity.

15 Your Honor, it's been a fair process. It's been a
16 transformative process. The Special Master has brought a
17 settlement to the table that all parties could have adopted,
18 should have adopted, and can still maybe adopt. We should no
19 longer be held hostage by small parties who want a better deal
20 than everyone else got.

21 Thank you, your Honor.

22 THE CLERK: Thank you, Mr. Clark.

23 Messrs. Cohen and Olson, one minute apiece, or two
24 minutes.

25 Mr. Olson. Thank you.

G31dnmla

1 MR. OLSON: Thank you. Thank you, your Honor. May it
2 please the Court:

3 We're only making one point. Today, is there going to
4 be an immediate application of this order or is it going to be
5 postponed for 30 days to give the remaining parties an
6 opportunity to negotiate with Argentina to get their claims
7 resolved? We submit, and it's very simple, that if they don't
8 have that opportunity they're likely to appeal. If they
9 appeal, it's going to delay the entire process considerably,
10 and that puts everything at risk.

11 We all want this settlement to go through. We want
12 this litigation to be over. All of us I think in this room
13 hope to see the end and are seeing the light at the end of this
14 tunnel, thanks to the hard work of the Special Master, your
15 Honor, and the parties that have worked for this.

16 What we're suggesting is instead of inviting a
17 virtually automatic appeal by people who have the right to do
18 so -- and this was referred to by the Second Circuit during the
19 argument in that case. One of the judges said you've got a
20 virtually certain winning appeal. So we're saying that give
21 peace a chance, so to speak. Give 30 days to allow these
22 people to bring this to a resolution. If it doesn't happen,
23 we're no worse off. But if they are forced to do this, we are
24 worse off and everything is in jeopardy.

25 So that's all we're suggesting.

G31dnmla

1 THE CLERK: Thank you, Mr. Olson.

2 Mr. Friedman.

3 MR. FRIEDMAN: Your Honor, the indicative ruling
4 issued by this Court makes crystal clear that the goal of the
5 Court is to have the parties enter into settlement agreements
6 and that when the parties do so, if Argentina makes full
7 payment in accordance with the specific terms of those
8 agreements, the injunctions will be vacated. Aurelius, NML,
9 Blue Angel and Olifant entered into an agreement with Argentina
10 which has specific terms. We hope there will be full payment
11 in accordance with those terms, but if there is not, there is
12 no legal or equitable basis for vacating the injunctions in
13 favor of 65 percent of the plaintiff group just because a very
14 small minority of other plaintiffs have settled.

15 In effect, Argentina here is trying to change the
16 terms of the agreement entered into with NML, Aurelius,
17 Olifant, and Blue Angel. Under that agreement the injunctions
18 remain in effect unless these plaintiffs are paid, and at the
19 same time these plaintiffs agree that upon payment the
20 injunctions are vacated. That's what should happen, your
21 Honor.

22 We hope the settlement will be consummated. We hope
23 your Honor will not issue an order today, because that will
24 throw everything into delay and appeals. Thank you.

25 THE CLERK: Thank you, Mr. Friedman.

G31dnmla

1 Mr. Spencer.

2 MR. SPENCER: Your Honor, I think you have two
3 pathways open to you based on the arguments we've heard. One
4 of them is if you do issue an order today, litigation will
5 shift to the Second Circuit, and no one can predict the
6 schedule on which that will unfold or the outcome. And that
7 uncertainty, your Honor, is, unfortunately, almost certain to
8 throw a monkey wrench into the final resolution of these cases.
9 The other pathway, your Honor, is to give us some breathing
10 room so that the negotiation from the remaining 50 percent with
11 Argentina can have a fair chance to conclude.

12 Now, it's obvious from the argument that there is also
13 a dispute between the large settling bondholders, represented
14 by Mr. Cohen and Mr. Friedman, and Argentina. So that needs
15 some time to get resolved, as well.

16 And I think, your Honor, the benefits of staying your
17 hand for 30 days are obvious compared to the "let's go to the
18 Second Circuit" option, which suits no one's interest here.

19 Thank you.

20 THE CLERK: Thank you, Mr. Spencer.

21 Mr. Costantini.

22 MR. COSTANTINI: Your Honor, Tony Costantini again. I
23 have two brief comments to make.

24 One with respect to the Second Circuit mandate that
25 says that the order, if you read this order, shall be stayed at

G31dnmla

1 least 14 days. Your Honor has the power to do otherwise and
2 staying it for longer than 14 days if your Honor thinks it is
3 appropriate. And the suggestion that was made, that you are
4 obligated by the 14 days, you are in a sense but it must be at
5 least 14 days; but if you decide that it should be longer, that
6 would be appropriate.

7 The second point that I want to respond to is the one
8 made by Mr. Clark on behalf of the exchange bondholders. The
9 exchange bondholders have received billions of dollars over ten
10 years that were, by definition, illegal and in violation of the
11 pari passu clause. My clients and a lot of other clients
12 represented in this room have waited 15 years. I don't have
13 any sympathy for making the exchange bondholders wait a little
14 bit longer to get this all resolved.

15 Thank you very much.

16 THE CLERK: Thank you, Mr. Costantini.

17 Mr. Levine.

18 MR. LEVINE: Thank you, your Honor.

19 Following up with what Mr. Costantini was saying about
20 the remand order, the language is "Argentina agrees to a stay
21 of up to two weeks of any district court order formalizing the
22 indicative ruling." So the fact that Argentina has previously
23 agreed I don't think at all limits your Honor's hand in
24 deciding what to do in terms of a longer stay.

25 The other thing I want to point out is that my clients

G31dnmla

1 feel very disadvantaged and treated unfairly by the process to
2 date, because as indicated before, they have not been involved
3 with the Special Master, they have not met with him, they have
4 not met with Argentina, and yet since the indicative order has
5 come out they've seen Argentina begin to retrade. The
6 settlement offer, for example, said nothing about any
7 limitation on claims based on purported statute of limitations
8 defenses, which have never been litigated, never pushed by
9 Argentina, and yet since the indicative order has come out
10 we've begun to see Argentina making noise about that. That's
11 totally -- so, effectively, as I had said before, the rug is
12 being pulled out from under my clients, who have the same legal
13 rights and the same interests as the plaintiffs who have had
14 the opportunity to engage with Argentina.

15 So we think that there should be no doubt that the
16 indicative order should be delayed, whether it is done by a
17 stay, whether it is by moving the February 29th date back a
18 month, whether the order -- whether everything -- somehow time
19 is built in and Argentina is required to engage with the
20 bondholders who have been knocking on its door, who have been
21 reaching out to the Special Master and so far have not had an
22 opportunity. It really is unfair to require them to sit -- to
23 accept the, as they have, the settlement proposal when it's
24 unclear to what extent Argentina means what it says --

25 THE CLERK: Time, Mr. Levine.

G31dnmla

1 MR. LEVINE: Thank you, your Honor. We do need those
2 30 days.

3 THE CLERK: Thank you.

4 Ms. Bhargava.

5 MS. BHARGAVA: May it please the Court:

6 Your Honor, we a hundred percent agree with the 30-day
7 extension, and I join in and adopt Mr. Olson's argument on
8 behalf of my client. Thank you so much.

9 THE CLERK: Thank you very much.

10 Ms. Scullion.

11 MS. SCULLION: Nothing further. Thank you your Honor.

12 THE CLERK: Nothing further. Thank you.

13 Mr. Willett.

14 MR. WILLETT: Your Honor, the arguments of the
15 proponents of the motion come down to two words. Don't delay,
16 they say. Now, we agree with Mr. Olson about this, but if you
17 are not persuaded, if you feel you must enter an order today,
18 the suggestion that we made would not be any slower than
19 Mr. Paskin's order. His order doesn't become effective until
20 the conditions occur, or are deemed to occur. Ours becomes
21 effective and the proposal becomes effective when you find that
22 they have occurred. The difference might be a matter of days.

23 Also, that form of order, if you entered it today,
24 would not be appealable as of right. So we wouldn't have this
25 running around to the Second Circuit, and Argentina would

G31dnmla

1 have -- its parliament would have the clear statement by your
2 Honor that you will lift injunctions upon the occurrence of the
3 conditions.

4 Now, our concern in this regard is not hypothetical.
5 I just refer the Court quickly to the Lee affidavit. It's
6 docket 893. And it shows that one of our clients which had
7 negotiated a deal just before your ruling, on February 19th,
8 had Argentina pull that deal back the following Monday,
9 February 22nd. Honero is the name of that holder, and they had
10 no choice but to accept the bid on February 29th, given the
11 exigencies. The concern is that unless you have some control
12 over whether these conditions had occurred or not, we could
13 have the same kind of renege later.

14 Thank you, your Honor.

15 THE CLERK: Thank you, Mr. Willett.

16 Ms. Sleater.

17 MS. SLEATER: Nothing further.

18 THE CLERK: Thank you.

19 Mr. Schaffer.

20 MR. SCHAFFER: Your Honor, on several occasions the
21 Court has recognized that BNY Mellon acted very responsibly in
22 complying with the injunction. All that we ask now is to
23 maintain the integrity of the indenture in any orders of the
24 Court.

25 Thank you.

G31dnmla

1 THE CLERK: Thank you, Mr. Schaffer.

2 Your Honor, that concludes rebuttal.

3 THE COURT: Let me just say, this has been a
4 remarkable afternoon. Many people have spoken. They have
5 spoken briefly, and substantially. As a judge, I appreciate
6 that very, very much.

7 Now, the Court stands adjourned. Decision is
8 reserved.

9

10 - - -

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

